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SUMMARY RECORD OF THE 19th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 28 March 2002, at 10 a.m.

Chairperson: Mr. JAKUBOWSKI (Poland)

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

The meeting was called to order at 10.15 a.m.

STATEMENT BY THE MINISTER FOR SPECIAL AFFAIRS OF GEORGIA

1. Mr. KAKABADZE (Georgia), having expressed his Government's appreciation of the outstanding contribution made by the United Nations High Commissioner to the cause of human rights, said that his country's most painful problem was still its violated territorial integrity, one of a series of new threats that the international community had shown itself unprepared to address. As a result of a campaign of genocide and ethnic cleansing conducted by Abkhaz separatists with external military support, many civilians, both Georgians and members of other ethnic groups, had been killed and more than 300,000 forcibly displaced.

2. It was difficult to believe what had happened: the Abkhaz, who had originally represented only 17 per cent of the population, had, with the help of foreign regular army units and mercenaries, expelled the majority simply because they were not Abkhaz, but Georgians, Armenians, Jews, Estonians, Greeks or members of other ethnic groups. Racially motivated summary executions and mass killings had occurred. His Government was, nonetheless, convinced that all issues must be solved by political means. He was confident that, in time, Georgians and Abkhaz would dwell together in their historic homeland.

3. One of the reasons for the failure of all attempts to resolve the conflict was that the true nature of events in Abkhazia had not yet been objectively assessed by United Nations bodies, including the Commission. The more than 30 Security Council resolutions on the conflict in Abkhazia, Georgia, did not contain such an assessment, despite the fact that the final documents of the Budapest and Lisbon summits of the Organization for Security and Cooperation in Europe (OSCE) described the action of the Abkhaz separatists as ethnic cleansing.

4. The Georgian Parliament had recently discussed the Abkhazia issue and adopted a resolution deploring the ethnic cleansing and other brutalities committed by Abkhaz separatists against the peaceful population of the region, characterizing them as a genocide of the ethnic Georgian population. The Parliament urged the international community to make a proper assessment of the human rights situation in Abkhazia.

5. Security Council resolution 1393 (2002) welcomed and supported the finalization of the document on "Basic Principles for the Distribution of Competencies between Tbilisi and Sukhumi", and of its letter of transmittal, recalling that the purpose of those documents was to facilitate meaningful negotiations between the parties, under the leadership of the United Nations, on the status of Abkhazia within the State of Georgia. The Abkhaz separatist leadership, however, had rejected cooperation not only with Georgia but also with the United Nations, the Group of Friends of the Secretary-General, OSCE and other international organizations.

6. It was no secret that the Abkhaz side was backed from abroad. The unilateral introduction by the Russian Federation of a visa regime with Georgia, while the separatist regions of Abkhazia and South Ossetia had been granted visa-free arrangements, had had an extremely negative impact on the resolution of the conflict. Despite his Government's reiterated objections, the Russian Federation continued to grant Russian citizenship to residents of

Abkhazia and South Ossetia, thereby giving certain Russian circles a pretext for interfering in the internal affairs of Georgia on the grounds that they were protecting the rights of Russian citizens. That was a gross violation of international norms and principles.

7. The work of the United Nations/OSCE human rights field office should be more transparent and its reports more freely accessible to the relevant Georgian authorities. According to the report of the United Nations/OSCE joint assessment mission, there had been numerous human rights violations in the Gali district, including the Abkhaz policy to eliminate Georgian as a language of instruction in the schools and replace it with Russian. The violations in Gali were directly or indirectly supported by the Commonwealth of Independent States (CIS) peacekeeping forces, which, in many cases, instead of their mandated tasks, were carrying out the functions of frontier guards, at the behest of certain circles in Russia. Moreover, the peacekeeping forces' undisguised cooperation with Abkhaz separatists often led to extremely negative consequences. For example, four Georgian citizens had recently been indicted on a charge of the so-called "illegal crossing of the Abkhaz State border". The opening of the Gali branch of the Sukhumi field office, which had been recommended by the joint assessment mission, would undoubtedly contribute to an improvement in the situation.

8. His Government had given serious consideration to adopting specific measures for internally displaced persons, in particular to provide them with access to services such as education and health care and to land and opportunities for income generation, as well as giving them the right to participate fully in the civil and political decision-making processes affecting their lives. As requested by the United Nations, legislation governing land ownership and the franchise would have to be revised so as to respect the rights of internally displaced persons.

9. His Government fully agreed with the suggestion that efforts should focus on development rather than humanitarian assistance. The implementation of self-sufficiency projects and the introduction of a new policy towards internally displaced persons, elaborated by the Government in close cooperation with the United Nations Development Programme (UNDP), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), the World Bank, the United States Agency for International Development (USAID) and other international organizations and donor countries, would help to ensure an efficient transition from humanitarian assistance to more sustainable development in the short and medium term.

10. His Government, which had supported the draft resolution on the issue of housing and property restitution for returnees at the Commission's previous three sessions, was ready to ensure that returnees in Georgia would encounter a fair and transparent process for restitution or compensation. In that connection, he expressed his Government's appreciation to the Special Representative of the Secretary-General on internationally displaced persons, who had produced a commendable report on his visit to Georgia.

11. His Government attached great importance to the achievements of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Particular attention should be paid by national authorities to the elaboration of appropriate legislation or national plans to combat racism. His Government was strongly committed to the struggle against any form of discrimination, including violations of the rights of religious minorities.

12. Since 1992, Georgia had received several visits from special rapporteurs of the Commission. It ensured that such visits from United Nations human rights bodies were not subjected to bureaucratic obstacles. He also drew attention to the fact that the President of Georgia had strongly supported the initiative of Georgian non-governmental organizations (NGOs) to proclaim Georgia a territory free of torture. The National Security Council's Human Rights Protection Office had been assigned the task of carefully investigating any allegation of torture.

13. The current session of the Commission was the first since the attacks in the United States of America on 11 September 2001, which had shown that terrorism was a tragic problem threatening the entire international community. Very soon after the attacks, Georgia had joined the United States-led campaign to fight terrorism. In that connection, the question of how non-State actors could be held accountable for violating international standards and principles was a crucial one. The international community must focus clearly on human rights violations within uncontrolled territories like Abkhazia and South Ossetia. Recent events in Afghanistan were also a case in point of how non-State actors, if abandoned by the international community, could degenerate into terrorism. His Government was concentrating particular attention on the problems in the Pankisi Gorge of Georgia and, in close collaboration with the anti-terrorist coalition, would take all the necessary steps to root out the hotbed of terrorism in the region, while fully observing the human rights of the local population.

14. As the President of Georgia had recently said, South-Eastern Europe, and particularly Georgia, was hugely significant geopolitically, as a bridge or gateway connecting the West to resource-rich central Asia and China. What passed through the Caucasus, for good or for ill, would depend on how conflicts in the region were resolved and how successfully the region would be able to create genuinely modern, democratic political institutions, corruption-free systems of governance and market economies that would ensure adequate living standards for all its citizens. Peace and stability in the world could be achieved only through tolerance, dialogue and cooperation, in full respect for human rights and fundamental freedoms.

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF ANGOLA

15. Mr. CHICOTI (Angola), after commending the High Commissioner for Human Rights for her work in general and especially for the outcome of the Durban Conference, the consensus of which would, he hoped, be implemented, said that his Government had never, despite the conflict situation in the country, abdicated its commitment to the defence and promotion of human rights. The reform currently in progress had resulted in a Minors' Court being established, thus providing better protection for children's rights.

16. After a long colonial occupation by Portugal, Angola had had to face the bitterness of a bloody and devastating war for 26 years. The death on 22 February 2002 of Jonas Savimbi, leader of the União Nacional para a Independência Total de Angola (UNITA), pointed to a possible end to the suffering of his people and gave an opportunity for a new era of national reconciliation, peace and economic development. Moreover, the end of the cold war had accelerated the collapse of the apartheid regime in South Africa and the implementation of Security Council resolution 435 (1978) had resulted in the independence of Namibia, thus

providing an environment for political change in the region. His Government had been able, therefore, with the support of the international community, to take a sovereign decision to end the internal military conflict in Angola.

17. In 1989, the President of Angola had participated in the first summit meeting in an African peace initiative in Gbadolite, in the former Zaire, with Mr. Jonas Savimbi, and 18 African heads of State to find a negotiated solution to the Angolan conflict. Mr. Savimbi had accepted the deal but had denounced it a few days later. A new round of negotiations with UNITA had started in Bicesse, Portugal, prior to the 1992 elections. Mr. Savimbi had rejected the results of the elections and restarted the war, occupying large parts of Angolan territory, including four provincial capitals.

18. Further attempts to negotiate with UNITA had led to the conclusion of the Lusaka Protocol in 1994. Although stipulating that UNITA members would be included in the Government, the Protocol had not been implemented in full because Mr. Savimbi had rejected the office of Vice-President and pursued his primary objective of achieving political power by force. In response to successive appeals by the President to bring an end to the war and establish a dialogue, Mr. Savimbi had consistently responded with acts of pure terrorism, such as the assassination of civilians and kidnapping of children, which had been unequivocally condemned by the international community.

19. In an effort to relaunch the peace process, his Government had established an intersectoral commission to carry out the tasks agreed upon under the Lusaka Protocol. The Commission had held meetings with all political parties, civil society, observer countries, the diplomatic corps and the Special Representative of the Secretary-General. At the meetings, an agenda to restore peace had been submitted and had been consolidated in a comprehensive plan.

20. The Government had launched an appeal to all those who had been voluntarily or involuntarily associated with terrorist practices, urging them to reconsider their position and re-enter the normal life of the country, thus contributing to national reconciliation. Mr. Savimbi had, however, rejected such approaches once again and redoubled the violence against defenceless populations and legitimate State institutions. As a result, he had met his death in combat. The Government, however, reiterated its intention to implement the Lusaka Protocol in full. Negotiations were currently under way between government and UNITA forces on a ceasefire agreement, which was expected to produce a positive outcome.

21. At a time when Angolans were beginning to live in an atmosphere of forgiveness, reconciliation and fraternal harmony, his Government thanked the international community for its understanding and support and appealed to the Commission to help the country eradicate all factors that might tend to divide Angolans yet again, so that human rights might be preserved in the country.

22. Angolans needed the support of the international community as it faced the consequences of the war on the life of the most affected sectors of its population and in particular in bringing humanitarian assistance to all those who needed it. The most urgent tasks were the social reintegration of 150,000 war orphans and the resettlement of 4 million displaced persons.

23. It would also need assistance with peace and national reconciliation work, a vast demining programme that would permit the re-establishment of displaced persons and the free movement of persons and goods, mobilization for reconstruction, and preparation for elections.

24. Lastly, as the Government gradually extended its administration to areas previously controlled by UNITA, technical assistance by the Office of the High Commissioner for Human Rights (OHCHR) would be required both for human rights education and for awareness-raising campaigns.

STATEMENT BY THE DEPUTY PRIME MINISTER AND MINISTER FOR FOREIGN AFFAIRS OF THE CZECH REPUBLIC

25. Mr. KAVAN (Czech Republic) said many people believed that the world had changed after 11 September 2001. The world did not change by itself, however, but was changed by people. That change must not be for the worse and terrorists must not be permitted to be the main agents of change.

26. The divisiveness of the issue of racism, racial discrimination, xenophobia and intolerance had been highlighted at the Durban Conference in the course of the discussions leading to approval of the final documents. The task ahead was a long-term undertaking and must continue with undiminished intensity.

27. Although the current session was the last in which his country would be participating as a member of the Commission, it would continue to play an active role and contribute to the protection and promotion of human rights, a fundamental part of its foreign policy. Given his region's rich experience in the campaign for the implementation of human rights, it should be possible for serious consideration to be given to a candidate from that region for the post of High Commissioner. His Government had already proposed its own candidate.

28. International treaties alone would not prevent human rights violations. Even the almost universal ratification of the Convention on the Rights of the Child gave little cause for satisfaction as long as such problems as child soldiers, street children and child pornography persisted. Greater emphasis must be placed on the implementation of existing standards.

29. His Government considered the attention paid by the international community to the situation of human rights in individual countries, and constructive criticism of those countries, to be a legitimate means of achieving progress. Even the affluent democracies could not guarantee that their institutions would never infringe human rights, despite their systems of checks and balances. It was important also, however, to take account of the willingness of Governments to redress harm and build a State based on the rule of law.

30. In the light of its own experience, his country was naturally concerned at the situation of human rights in countries that publicly defended what was essentially a one-party system while, at the same time, attempting to persuade the world they enjoyed political plurality, and then labelling the international community's legitimate interest as interference in their internal affairs. Such countries were easy to identify: opposition and human rights activists were branded criminals or subversive elements; and citizens had no effective access to international human

rights mechanisms. Examples of such authoritarian behaviour were the persecution of journalists in Belarus and of religious and ethnic minorities in China; the conduct of the recent elections in Zimbabwe; and the fate of the Kurds in Turkey and elsewhere in the region.

31. The situation of Palestinian and Israeli civilians, who lived in daily fear of terror and violence, was another example. That conflict could not be solved by military means. There must be a political solution based on Security Council resolutions 242 (1967) and 338 (1973) and on the principle of land for peace. Israel's security needs must be fully respected and a democratic Palestinian State should be established and recognized.

32. His Government had always been concerned whenever democracy was under threat, anywhere in the world. That applied in many countries, including Cuba. His delegation's efforts to encourage constructive and open dialogue between the Cuban Government and the international community, by submitting a resolution on the situation of human rights in Cuba at the last three sessions of the Commission, had arisen from the conviction that Cuba would be able to find ways to install a democratic regime that would protect human rights and build a pluralistic society based on the rule of law.

33. His delegation had never submitted that resolution without evaluating both the actual human rights situation in Cuba and the willingness of its Government to improve it, which were two sides of the same coin. There were currently signs of steps being taken in the right direction, although Cuba still had a long way to travel. He agreed with the delegations of a number of Latin American countries that isolation was not conducive to the unhindered development of human rights and so, although his Government remained critical of Cuba's human rights record, it would continue to support democratization processes through dialogue and communication.

34. His delegation would continue to campaign against the death penalty, for which there was no room in civilized democracies. The death penalty was an institutional violation of the right to life - the worst kind of violation. To apply the death penalty and at the same time to call for adherence to the principle of the universality of human rights seemed hypocritical. He called upon all countries that still applied the death penalty to cease to do so, or - better still - to abolish it altogether.

35. His Government fully supported the establishment of the International Criminal Court and the adoption of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It was also in favour of starting intensive work on an optional protocol to the International Covenant on Economic, Social and Cultural Rights, so as to provide the same level of protection as for civil and political rights.

36. He believed in a human right to live in dignity. That was not possible in circumstances of extreme poverty. Persistent poverty, like unresolved political conflict, could lead to feelings of powerlessness, frustration and anger, which were a fertile ground for support of violence and terror. In such an atmosphere, human rights naturally suffered. He therefore welcomed the commitment made by some of the developed countries at the recent International Conference on Financing for Development to fight poverty by offering genuine trade and increasing the percentage of gross domestic product (GDP) allocated to official development assistance (ODA).

37. Lastly, he paid tribute to the work of human rights defenders and NGOs. Cooperation between the governmental and non-governmental sectors was crucial for the successful resolution of human rights issues. His Government would continue to promote the implementation of the Declaration on Human Rights Defenders.

STATEMENT BY THE FIRST DEPUTY MINISTER FOR FOREIGN AFFAIRS OF THE RUSSIAN FEDERATION

38. Mr. LOSHCHININ (Russian Federation) said that the Millennium Summit held in New York in 2000 had outlined the modern world order and identified the issues to be resolved in order to establish the principles of security, development, non-discrimination and humanism in international relations. The events of 11 September 2001 had corrected the international community's agenda substantially. It was only then that the world had come to a full realization of the danger of terrorism.

39. The terrorists had hoped that, by their actions, they would sow panic and division, fear and despair, and thus be able to dictate to the civilized world. In fact, they had achieved the opposite, bringing together the international community to face a common threat in a manner unprecedented since the Second World War.

40. The problem of terrorism was one the Commission had addressed for a number of years, most recently by adopting resolution No. 2001/37 entitled "Human rights and terrorism". Its approach had been rather conservative, however, and no common understanding of the consequences of terrorism for the observance of human rights had been reached. The issue was a complex one that went beyond strictly legal considerations, yet the memory of the numerous victims of terrorism made it essential to take a fresh look at apparently well-established theories and approaches.

41. Paragraph 17 of the Vienna Declaration and Programme of Action had lost none of its relevance. Terrorists used the notion of a fight for human rights and fundamental freedoms in order to justify extremist and separatist aspirations. To attempt to explain terrorist activities by categorizing them as "good" or "bad" was to disregard the Commission's own position that terrorism could never be justified and to endorse a policy of double standards.

42. The primary responsibility for promoting and protecting human rights lay with individual States. In the event of a real threat to fundamental rights and freedoms, the State had no alternative but to take effective measures to protect those under its jurisdiction. The reinforcement of measures to combat terrorism inevitably raised questions concerning their impact on human rights, the admissibility of restrictions on those rights and the extent to which States could depart from their obligations. The dilemma States faced was whether to protect fundamental rights and the lives of its citizens or show a form of respect for terrorists.

43. The Russian Federation was contributing to the fight against global terrorism. In the 1990s, it had been one of the first countries to challenge terrorist threats to human rights, the security of Russian citizens and the territorial integrity of the country. Not all the problems

that had arisen in the Chechen Republic could be resolved by the use of force and the Russian Federation was not seeking to do so. His Government was constantly searching for ways of reaching a political settlement.

44. Efforts to normalize life in the Chechen Republic had been an integral part of the counter-terrorist operation from the outset, and were proceeding, despite the difficulties. A new Constitution for the Chechen Republic was being drafted and elections would be held soon. The Office of the Procurator-General and the Office of the Special Representative of the President of the Russian Federation for Promotion of Human and Civil Rights and Freedoms in the Chechen Republic were cooperating in investigating all human rights violations, regardless of who had committed them. Representatives of civil society were also involved in that work. However, there would be no compromise with those who continued to use force to hamper the return of the Chechen Republic to normality.

45. His Government would not withdraw from the dialogue with the international institutions on the situation in the Northern Caucasus, and indeed was ready to broaden and strengthen that dialogue, as long as it was substantive and constructive. There was no room for political intrigue or self-interest.

46. It was important not to forget other important issues, such as the situation in the Middle East, the question of minorities and the fight against racism and racial discrimination. The international community would need to be united if the outcomes of the Durban Conference were to be implemented, and any policy of double standards must be rejected. The Commission had a role to play in that regard. Similarly, given the contradictory nature of the process of globalization, the main principles of the right to development must be formulated clearly. His delegation was also prepared to make suggestions concerning the integrity of the judicial system, an issue which the Commission should consider at its current session.

47. His Government was convinced that the protection of human rights could be a unifying factor in modern international relations. Without such unity, it would be difficult to achieve genuine progress in integrating human rights into all United Nations activities.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 9) (E/CN.4/2002/3, 4, 9, 10, 33-40, 41 and Add.1, 42-49, 124, 144, 149-151, 156 and 157; E/CN.4/2002/NGO/14, 36, 52, 54-57, 65, 91, 97, 101, 110, 143, 147, 153, 154, 159, 170-176 and 178)

48. Mr. PINHEIRO (Special Rapporteur on the situation of human rights in Myanmar), introducing his report (E/CN.4/2002/45), expressed his appreciation to the Government of Myanmar for the support extended to him during his second fact-finding mission to the country. He had been allowed to travel where he liked and speak to whom he liked. That openness could stand as an example to other Governments.

49. The means employed to effect a genuine political dialogue and democratic transition in the Myanmar were open to discussion, but the process continued. He believed that Myanmar was destined to change. Confidence-building could not, of course, take the form of ignoring major and persistent human rights abuses but, if the international community wanted to see progress in respecting political and human rights, it should support the current efforts in a spirit of principled engagement.

50. On the Myanmar side, there must be a serious will to improve the human rights situation not only in words but in deeds. Otherwise his role would be an empty one. For the transition to succeed, the process must be inclusive. All elements in society should be able to participate in national reconciliation. There were two other fundamental conditions: the release of all political prisoners and the restoration of the exercise of the rights to freedom of opinion, expression, assembly, association, movement and information.

51. One luminous episode during his mission had been a meeting with the villagers of a small Kachin community outside Myitkyina, the capital of Kachin State. For the past two and a half years, the village had, along with 53 others, totalling 32,000 inhabitants, been benefiting from a multisectoral, participatory, poverty-alleviation UNDP project run by the United Nations Office for Project Services (UNOPS). The project was emblematic in many ways. First, it was essentially what human rights work at the grass-roots level was about. Secondly, it was a practical illustration of the concept of the right to development, when properly understood. Thirdly, it was a vibrant illustration of the interrelatedness of economic, social, cultural, civil and political rights. Lastly, it demonstrated how international humanitarian and development resources could be intelligently invested in a manner directly benefiting the people themselves.

52. The precarious humanitarian situation in the country required a more adequate response from the international community. The people of Myanmar should benefit from external assistance immediately, because their basic right to survi · must be guaranteed without further delay. In that connection, he stressed the valuable assistance efforts of international NGOs, which operated among the most vulnerable groups in Myanmar.

53. For people to build their lives, peace was required. He commended the patient efforts by the State Peace and Development Council (SPDC) and 17 ethnic minority-based armed groups to reach separate ceasefire agreements. He was also pleased to confirm that the National League for Democracy (NLD) had been able to continue opening party offices in the Yangon and Mandalay divisions. However, the stringent restrictions on the NLD and other political parties continued to hamper their legitimate activities. If that situation persisted, there would be no credible transition.

54. With regard to his recommendation that all political prisoners should be released, he suggested that serious attention be given to an amnesty or a series of amnesties. Should that possibility be seriously considered, the United Nations could assist Myanmar by providing interested parties with information and advice. He could not accept the view that the estimated 1,600 remaining political prisoners were criminal offenders. The SPDC tacitly acknowledged as much, since they were held separately from common criminals.

55. There were several categories of political prisoner. First, many were detained merely for having expressed their political opinions, a fundamental human right. Secondly, there were persons who had never been charged or tried, yet had been in prison for several years. Thirdly, there were those who were old or sick and should be released on humanitarian grounds. He welcomed the fact that, in 2001, about 219 political detainees had been released from prisons and "guest houses". Since the beginning of 2002, 44 more had been freed. He was also happy to confirm the recent release of 318 women prisoners, all pregnant or mothers with young children.

56. He hoped that the wish of a 72-year-old NLD politician, poet and journalist, imprisoned since 1989, that the Special Rapporteur could bring light to all the people of Myanmar, would soon become a reality. Lastly, he hoped that the restrictions on Daw Aung San Suu Kyi would be lifted soon, so that she could resume normal political activities as leader of a legal political party.

57. Two fundamental concerns, which he had already started raising with his interlocutors, were the need to ensure the independence of the judiciary and the right to defence.

58. The interviews he had conducted showed a pattern of human rights violations by some military personnel against mostly civilian villagers for their suspected or imputed sympathy or support for ethnic or other armed opposition groups.

59. He welcomed the fact that the negotiations between the Government and the International Labour Organization (ILO), following the ILO technical cooperation mission, had produced a Memorandum of Understanding on the appointment of an ILO Liaison Officer in Myanmar. That was a positive step, which would open the way for effective ILO representation in the country to assist the Government in eradicating forced labour. The conditions could then eventually be created for a possible review of the measures taken by the ILO under article 33 of its Constitution.

60. Mr. THAN (Observer for Myanmar) said that the report presented by the Special Rapporteur on the situation of human rights in Myanmar was a fairly balanced and quite positive one. It reflected to some extent Myanmar's advances in the political, economic, social and cultural fields since 1988 and the significant progress made in its human rights situation, and, in conjunction with the Special Rapporteur's oral presentation, gave the lie to the negative portrayal of the situation in Myanmar by outside observers and elements of the foreign media.

61. With regard to the Special Rapporteur's call for the early release of political detainees and prisoners, he stressed that the individuals concerned had been jailed for breaking the law and not for political beliefs or activities and recalled that many detainees had been released in recent months. As for allegations of abuses against the population in border areas, he noted that the Special Rapporteur had himself admitted that there was a lack of substantiating evidence and expressed the hope that, in the future, the Special Rapporteur would include in his report only substantiated accusations.

62. His delegation, which welcomed the generally constructive and positive approach adopted by the Special Rapporteur, fully expected that the progress made in the human rights

situation in his country would be reflected in the language of any draft resolution on Myanmar. It hoped that that positive approach would be maintained, so that his Government's continued cooperation with the Commission and its mechanisms could be ensured.

63. Mr. BAUM (Special Rapporteur on the situation of human rights in the Sudan), introducing his report (E/CN.4/2002/46), thanked the Government of the Sudan for its frank and open cooperation. He noted that the recent involvement of the United States in peace efforts in the Sudan had borne fruit. The four points contained in the United States initiative, namely the ceasefire agreement for the Nuba Mountains, the days of tranquillity to allow for the eradication of diseases, the issue of slavery, abductions and forced servitude and the recent agreement regarding protection for civilians, would, if fully implemented, certainly improve the overall human rights and humanitarian situation.

64. However, human rights abuses linked to the conflict were just one aspect of the problem and the overall human rights situation was still a cause for concern, although the Government had adopted measures aimed at institution-building, training and the creation of a national human rights commission. He therefore recommended that the situation of human rights in the Sudan remain under scrutiny. He was concerned that the recent elections to the bar association, had been neither free nor fair and was particularly concerned at the role played by the Constitutional Court in that regard and the apparent lack of independence of the judiciary.

65. He maintained his criticism of the National Security Forces Act, and expressed concern at the proposed amendments to the Criminal Procedure Act of 1991 which, although not yet approved, would give police officers powers comparable with those enjoyed by the security officers.

66. Although freedom of the press had benefited temporarily from the lifting of censorship in late November 2001, some of the more independent newspapers continued to be targeted and heavily fined, apparently in an effort to force them into bankruptcy. Although there was no religious persecution per se in the Sudan, reports continued to be received of discrimination against Christians, the status of whose churches was not legally secured.

67. Turning to human rights and humanitarian law, he said that he was extremely concerned at the situation in the Upper Nile region, and informed the Commission that he had received reports of 21 villages being burned by Government-allied militias on 11 February 2002 in the northern Upper Nile region. Access for humanitarian aid continued to be difficult and flight clearance procedures were confusing. The number of denied locations had apparently increased and he continued to receive reports of forced recruitment and of the diversion of food aid involving the Sudan People's Liberation Movement/Army (SPLM/A) and the Sudan People's Democratic Front (SPDF). The plight of civilians and displaced persons was still a matter of serious concern.

68. The situation of civil rights in the territories controlled by the SPLM/A remained serious and there seemed to be a reluctance to move rapidly to create an environment conducive to the establishment of a civil administration. Reports had been received of human rights violations committed by the SPLM/A in the framework of the conflict.

69. There was hope for a possible breakthrough in the peace negotiations and although, in the aftermath of 11 September 2001, there was a risk of abuses under the pretext of combating terrorism, he remained cautiously optimistic that a window of opportunity had opened. The momentum towards peace must be preserved and he reiterated his appeal to the international community to invest not only in relief activities but also in efforts to strengthen Sudanese civil society and infrastructure. The peace process was the key to further development of the country and the coming month would be decisive. He hoped that the peace efforts would meet with success and encouraged all international partners to continue their efforts to promote that process. Strong political involvement by the Secretary-General was urgently needed.

70. Mr. MIRGHANI IBRAHIM (Sudan) reaffirmed his Government's commitment to human rights and fundamental freedoms and to continued constructive dialogue with the Special Rapporteur on the situation of human rights in the Sudan and with the United Nations human rights mechanisms in general.

71. He welcomed the many positive aspects noted by the Special Rapporteur and, with regard to the recent peace efforts by the United States of America, was pleased to report that the confidence-building measures had been agreed to by his Government, in particular those relating to the protection of civilians pending a comprehensive ceasefire, humanitarian assistance to the Nuba Mountains region and additional support for efforts to eliminate the abduction of women and children. He was also pleased to report that the Special Representative of the Secretary-General on internally displaced persons had visited the country and his Government was providing displaced persons with basic education and health services and granting each family a plot of land. In addition, the Advisory Council for Christians had been established and churches had been invited to appoint their representatives thereto.

72. As for the individual human rights cases taken up by the Special Rapporteur, he recalled that their root cause was the ongoing conflict in southern Sudan, as the Special Rapporteur had himself noted. Recent developments in that connection in the Nuba Mountains and in relation to the protection of civilians and civilian premises would have a positive impact on the overall human rights situation.

73. He acknowledged that, on some rare occasions, civilians had been the unintended targets of aerial bombing but the blame for such incidents rested with the rebels, who used civilians as human shields and civilian premises for military purposes. His Government was keen to reach agreement on that issue with the representative of the United States of America but stressed that full protection of civilians would not be possible until the rebels accepted the comprehensive ceasefire proposed by his Government.

74. With regard to allegations of the widespread displacement of civilian populations as a result of oil exploitation, he noted that the Special Rapporteur had himself admitted that it was difficult to estimate accurately the number of civilians involved in view of the fact that the situation remained extremely fluid and people were in constant movement.

75. Turning to the issue of child soldiers, he pointed out that the 9,000 child soldiers referred to in the report (para. 70) had been recruited by the rebels and should have been mentioned in section F of the report, dealing with the situation in rebel occupied territories, so as to avoid

confusion. His Government appreciated however, the efforts of the Special Rapporteur to report human rights violations committed by the SPLM/A, such as the use of civilian installations for military purposes, the lack of democratic structures, weakness in the judiciary and poorly trained law-enforcement officials, poor civilian administration and lack of accountability. The Special Rapporteur had noted that the SPLM/A did not represent all the people in the southern Sudan and that, in some areas, the rebels were seen as an occupying army.

76. He welcomed the completion of the first phase of the OHCHR technical cooperation programme, which was strongly supported by his Government. In recent months his Government had also taken steps to address all the concerns expressed by the Commission, including the protection of civilians, humanitarian assistance and abduction. The representatives of a number of countries had been invited to join in supervising implementation of those measures on the ground. Those efforts should be duly recognized by the Commission so as to encourage further constructive cooperation with the human rights mechanisms by the Government and people of the Sudan.

77. Mr. GALLON (Special Representative of the Commission on the situation of human rights in Equatorial Guinea), introducing his report (E/CN.4/2002/40), stressed that it was important that the Commission should continue its efforts to improve the difficult human rights situation in Equatorial Guinea. The Government had begun implementing directly and without the need for external technical assistance, some of the Commission's recommendations. It had also informed him of its decision to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination, to introduce a bill to prevent civilians from being tried by military tribunals, to improve sanitary conditions in detention centres, to prevent divorced women from being imprisoned if they did not return their marriage dowry and to stop arbitrary detention. The Commission's continuing efforts were clearly bearing fruit. Furthermore, his suggestion that an expert mission be sent to the country to assist in implementing the Convention against Torture and to reform the military penal system so as to prevent civilians from being brought before military courts, had been accepted by the Government and the OHCHR and talks were under way to take action as soon as possible in that regard.

78. Much still remained to be done however, to ensure the rule of law. Equatorial Guinea, although in theory a multiparty State, was in fact a one-party regime. Military force was often used against civilians and arbitrary detention was common. Conditions of detention remained deplorable and torture was frequent. He was particularly concerned at an alarming number of reports of harassment of opposition leaders, including arbitrary detention and death threats. The Bubi people, constituting a majority of the population of the island of Bioko but a minority of the national population in general, was frequently harassed, even to the extent of murder, by members of the Fang majority.

79. Extreme poverty affected 65 per cent of the population and was particularly damaging to education and child health care. Exploitation of the country's oil reserves would help to improve the human rights situation if the revenues were equitably distributed and would also contribute to solving the problem of child prostitution. Important assistance was being given, however, by the European Commission, UNDP, and the Spanish and French Governments.

80. Mr. MAYE NSUE MANGUE (Observer for Equatorial Guinea) said that the report of the Commission's Special Representative to monitor the situation of human rights in Equatorial Guinea, was lacking in objectivity. The Commission had, by its previous resolution, recognized that progress had been made and, in 2001, his country had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination. The Government had also submitted bills to prohibit the imprisonment of women for failure to repay their dowries, to ensure that the courts would supervise the legality of detentions and to remove the requirement for exit visas for citizens. Legislative measures had been adopted to ensure judicial independence and professionalism, define the jurisdiction of military courts and regularize the recruitment and appointment of judges and magistrates.

81. His Government had also taken steps to improve conditions in places of detention, publish laws and administrative regulations in an official Gazette, comply with the Convention on the Rights of the Child and ratify numerous ILO conventions. It had signed the second evaluation agreement under the National Pact as part of the continuing dialogue between the Government and political parties and the State had funded the congresses of the opposition parties.

82. Stressing the difficulty of policing the borders, he rejected the insinuation of xenophobia contained in paragraph 48 of the report and stressed that foreigners were welcome in his country. His Government had decided that the International Convention on the Elimination of All Forms of Racial Discrimination should be ratified not because of discrimination in the country but rather with a view to consolidating the peaceful coexistence which had always existed among ethnic groups in the country. In that connection, his Government categorically rejected any attempt to divide up the national territory on the pretext of the right to self-determination of ethnic minorities.

83. He questioned the reliability of the sources which had provided information to the Special Representative on alleged cases of detentions, confinement, torture and passport abuses. Furthermore, with regard to the link drawn by the Special Representative between GDP and the population's standard of living, he said that, although the national economy was growing significantly, more than 70 per cent of the resulting income had to be used to reimburse multinational businesses for their investments, with the remainder being used for health, education, infrastructure, women's programmes and the repayment of the foreign debt.

84. Unfortunately there were still some people in his country who were trying to gain power through violence. Felipe Ondo Obiang and others had planned to overthrow the Government and kill its leaders and had been arrested for that reason. The Special Representative had been promptly informed of the reasons for the arrests and had been invited to visit the country to observe the investigation procedure at first hand. The investigation was being carried out with full respect for the human rights of the prisoners, who were promised an open, independent, impartial and fair trial with full regard for due process. Felipe Ondo Obiang and others had resorted to criminal acts in their attempts to dislodge the Government because they were unable to do so by political means.

85. He believed that his Government's human rights record was better than average for the region and called on the Commission to turn its attention to the provision of technical assistance for the promotion of human rights in Equatorial Guinea.

86. Ms. MOTOC (Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo) said that, during her exploratory visit to the Democratic Republic of the Congo in February 2002, she had been unable to visit the eastern part of the country, although she had been able to talk to the representatives of NGOs who worked in the occupied territories. She had appreciated the openness of the Head of State, President Joseph Kabila, and government officials during her discussions with them. The seriousness of the human rights situation in the country was largely due to the continuing armed conflict. For example, the inter-Congolese dialogue in Sun City had been interrupted by massive violations of the ceasefire by the Congolese Rally for Democracy (RCD-Goma). That dialogue was, however, the only hope for civil society in all parts of Congolese territory.

87. In the Government-controlled parts of the country, she had observed some positive developments in the observance of human rights, including the President's decision to declare a moratorium on the death penalty and the discharge of 300 child soldiers. Political observers generally agreed there had been improvements in the human rights situation since President Kabila had come to power. The main human rights violations were related to failures in the administration of justice: presidential decrees were not always put into practice, the Military Court (COM) continued to try offences committed by civilians and some of the people tried by the Court had not been released. The recommendations of the National Conference on Human Rights, held in June 2001, should be implemented and article 18 of the Congolese Charter of Human and the People's Rights, on the abolition of the death penalty, should be incorporated into Congolese law.

88. With regard to women's rights, she had been informed that the Labour Code continued to penalize women and she welcomed the efforts being made by women's NGOs to analyse it from the perspective of the Convention on the Elimination of All Forms of Discrimination against Women. With regard to children, it appeared that there had not yet been any follow-up to the submission of the country's periodic report to the Committee on the Rights of the Child in 2001 and the number of street children remained high. In general, the situation with regard to economic and social rights was still a cause for concern, as the division of the country into two parts gave rise to communication and supply problems.

89. She noted that it had taken over a year for those charged in connection with the assassination of former President Laurent-Désiré Kabila to be brought before the Military Court. She had heard stories of ill-treatment from those of them she had visited in prison in Kinshasa. No lawyer was allowed to speak to them and they were not told what the charges against them were and there were women among them whose only crime was to be married to suspects who were on the run. Nevertheless, she welcomed the decision to postpone the trial to give lawyers the chance to study the files that had been withheld from them for over a year.

90. She had also talked to students arrested at demonstrations in December 2001, who claimed to have been ill-treated by the authorities. After she had brought up their cases in talks with the Minister of Justice and the Minister of Human Rights, they had been released, although they had yet to return to the university.

91. Other cases of human rights abuses mentioned in the reports of her predecessor remained unresolved. Among them were the cases of the judges removed from office, the Masasu family and Mr. Justin Nindaga.

92. With regard to the eastern part of the country, where fighting was widespread, the sources she had spoken to all agreed that the situation there was a tragic one. The economic situation there had also worsened, mainly due to the non-payment of salaries in areas controlled by RCD-Goma and the illegal mining operations in the rebel-held areas occupied by foreign forces. Several sources had made the link between the presence of armed troops, including militia groups, and serious human rights violations, including systematic rape and arbitrary detention. The atmosphere in rebel-held territory was described as one of terror. Looting and extortion were taking place, freedom of expression and assembly and other freedoms were restricted and the administration of justice was hindered. The security of persons and property must be guaranteed in the rebel-held areas, human rights defenders, journalists and other opinion-formers must be better protected, and the security of humanitarian workers must be guaranteed. The use of sexual violence as a weapon of war was most disturbing, as women and children were in a particularly vulnerable position.

93. She would look more closely at the question of impunity in her next report: the discussions being organized by NGOs on the question would help the search for the fairest and most effective ways of combating it. She would also look more closely at the many reports of discrimination against indigenous people, including pygmies.

94. Lastly, she welcomed the support offered by President Kabila for the joint mission she had been asked to undertake with the Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to investigate the massacres carried out in the territory of the Democratic Republic of the Congo, particularly in Sud-Kivu.

95. Mr. MINUA KESIA-MBE (Democratic Republic of the Congo) said that he was heartened by the Special Rapporteur's oral report which, unlike those of many special rapporteurs, was well balanced and constructive. She had painted a generally positive picture of his country since President Joseph Kabila had come to power and had clearly brought out the difference in the human rights situation in the part of the country controlled by the rebels and their Ugandan and Rwandan allies. As she had said, the link between the presence of militia groups and severe human rights violations had been confirmed by several sources and there was an atmosphere of terror in rebel-held territory. The only real solution was to put an end to the war and to put pressure on the Governments of Rwanda and Uganda to withdraw their troops.

96. In Government-controlled territory, the picture was quite different. The Special Rapporteur had noted the positive developments there but had nevertheless attributed some human rights violations to the Government, a mistake that was, perhaps, due to her limited

experience of the country. As for the delay in bringing the killers of former President Laurent-Désiré Kabila to justice, he pointed out that even longer delays were not uncommon in ordinary murder investigations in certain European countries. It was inaccurate to say that some women had been arrested simply because they were the wives of wanted men: the women mentioned had been arrested on account of their own actions, especially in distributing funds.

97. As for the shortcomings in the observance of economic and social rights, it was very difficult for the Government to satisfy all the material needs of its people when it was fighting a war and donor assistance was falling. With regard to human rights abuses related to the functioning of the judicial system, a major reform was under way, and judges were receiving regular training with the help of international organizations and NGOs.

98. On the question of discrimination against women, he pointed out that women had had the vote in his country since it became independent and there were women in high official positions. His Government had set up the National Women's Council, which worked closely with NGOs and ministries to combat all forms of discrimination against women.

99. It had also set up a National Children's Council and ensured that children in conflict with the law were separated from adults in prisons. The problems concerning education, street children and pygmies were basically economic and social problems inherited from the Mobutu era and exacerbated by the war which, it should not be forgotten, had cost the lives of 3.5 million people. The international community should not remain silent in the face of those deaths: the human rights situation would improve when there was peace in his country.

100. Mr. RAZZOOQI (Observer for Kuwait) said that the Commission was one of the most effective mechanisms for promoting the principles of the Charter of the United Nations, and special rapporteurs were among its most useful tools. He agreed with the Secretary-General that the failure to uphold the dignity of one life all too often led to a calamity for entire nations and that the sovereignty of States must no longer be used as a shield for gross human rights violations.

101. It was in that context that he welcomed the report of the Special Rapporteur on the situation of human rights in Iraq (E/CN.4/2002/44). He was grateful that the Rapporteur had brought up the subject of the Kuwaiti prisoners of war and missing persons. However, he regretted that the Iraqi Government was still unwilling to cooperate with the Tripartite Commission in efforts to resolve that problem. He recalled that Iraq was a signatory to a memorandum signed at the first meeting of the Tripartite Commission, committing itself to the full implementation of the Geneva Conventions of 1949 and Security Council resolutions 686 (1991) and 687 (1991), and that the purpose of the memorandum was to resolve the question of prisoners of war, missing persons and other detainees. He noted that the Special Rapporteur had urged the Iraqi Government to work with the Tripartite Commission and to ensure that the investigations into pending cases were carried out and appropriately reported.

102. The Secretary-General, in his sixth report to the Security Council pursuant to paragraph 14 of resolution 1284 (1999), had urged Iraq to cooperate in the repatriation of Kuwaiti and third-country nationals arrested and deported over a decade earlier and to begin to

cooperate with the High-level Coordinator. It was deplorable that Iraq still refused to fulfil its duties under international law and to implement the relevant resolutions of the Security Council. He would like to remind the Government of Iraq that it bore full responsibility for releasing all prisoners of war and that the issue was not a political but a humanitarian one. That Government's non-cooperation was an unforgivable act of deliberate cruelty.

Statements in exercise of the right of reply

103. Mr. FERNÁNDEZ PALACIOS (Cuba) said that the reasons given by the Deputy Prime Minister of the Czech Republic to explain why his delegation had in the past sponsored draft resolutions criticizing Cuba's human rights record were unconvincing. The Deputy Prime Minister was more concerned with toeing the Washington line than with the human rights situation in Cuba.

104. Instead of criticizing developing countries, he should turn his attention to human rights violations in the United States, such as the scandalous abuse of the rule of law in the election fraud in Florida. He should also take care of problems in his own country before setting himself up as a moral authority on human rights in the rest of the world. He could learn from the development of the political dialogue between Cuba and the European Union that it was through respectful dialogue that mutual concerns were properly addressed.

105. He noted that the Czech delegation had announced earlier that it would not be submitting a draft resolution criticizing Cuba at the current session, and he trusted that it would be as good as its word.

106. Mr. SUNGAR (Observer for Turkey) said it was surprising that the Deputy Prime Minister of the Czech Republic should be assuming a position of moral authority, as if his own country had an unblemished human rights record. He had no need to be concerned about the Turkish Government's treatment of the Kurds who, like everyone else in Turkey, were protected by the Constitution from all forms of discrimination. If he really wished to improve the human rights situation, he would do better to turn his attention to the plight of the Roma community in his own country.

The meeting rose at 1.05 p.m.